

Use of Title III Funds – *Review of Requirements & Considerations for Allowable Costs and Supplement, not Supplant*

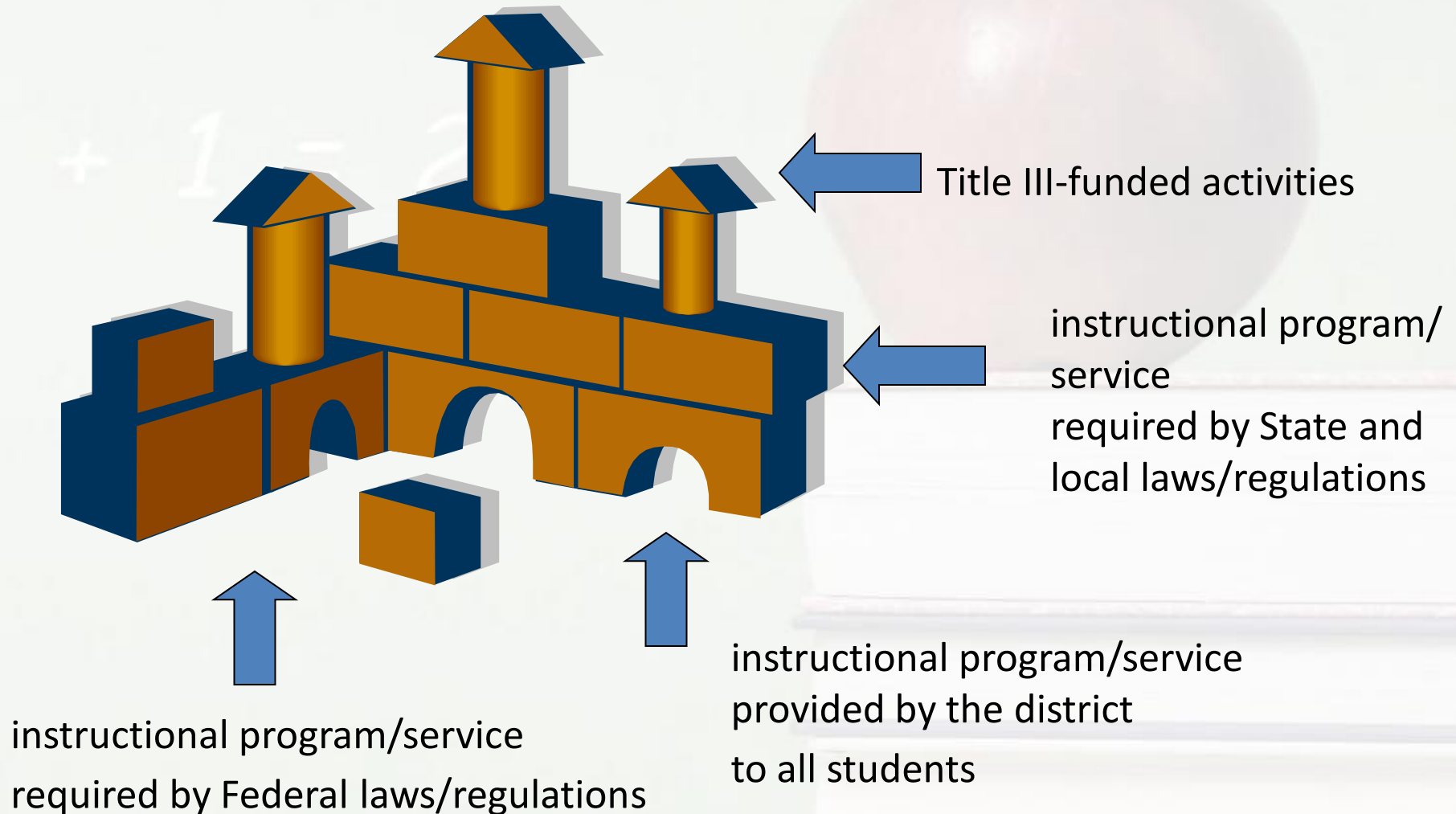
**Webinar for Title III SEA
Directors
July 21, 2010**

Title III Group, OESE, SASA
Supreet Anand, Group Leader
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Bailey

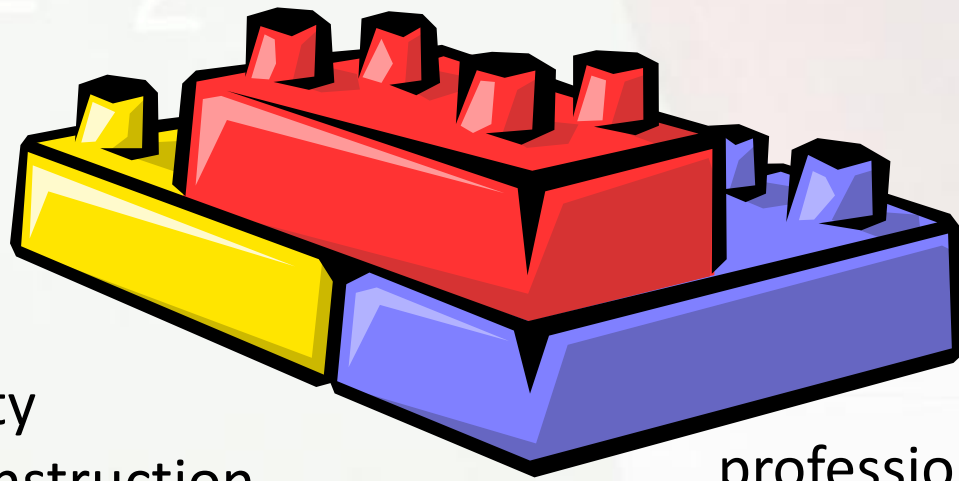
Webinar Format

- Brief review – foundations of supplemental Title III local educational agency (LEA) programs
- Overview – cost principles, supplement, not supplant
- Questions & discussion
- Question & answer
- Informational updates - Supreet

Title III – A Supplemental Program to Serve English Learners



Building Blocks to an Effective Title III Program that Meets Title III Requirements



high-quality
language instruction
educational program

professional
development

Reviewing LEA Applications & Amendments

Do all of the proposed expenditures meet the following criteria:

- ✓ Are they allowable?
- ✓ Are they allocable?
- ✓ Are they reasonable and necessary to carry out grant functions?
- ✓ Should they be included in the 2% limit as administrative costs?
- ✓ Do they meet supplement, not supplant requirements?

Use of Federal Funds - Criteria

Costs must be...

reasonable

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost.

allocable

A cost is allocable to a cost objective if the goods or services involved are chargeable or assignable to the cost objective in accordance with the relative benefits received.

allowable

A cost is allowable if it is necessary and reasonable for proper and efficient performance of the award and allocable to the award.

(OMB Circular A-87)

Examples of Unallowable Costs – for Local and State Educational Agencies

- ☐ Alcoholic beverages
- ☐ Donations and contributions
- ☐ Entertainment costs

-tickets to shows or sports events, meals, lodging, rentals, transportation, gratuities

MAY be allowable –

- ✓ reasonable lunch for participants in a professional development activity, if there is no other opportunity to eat, and the activity is all day
- ✓ reasonable snacks for students for Title III-funded summer or after school programs, and transportation for these programs, if needed and not provided by the district
- ✓ tickets and transportation for educational field trips, if part of high-quality language instruction educational program
- ✓ reasonable refreshments for parent outreach activities

Question #1:

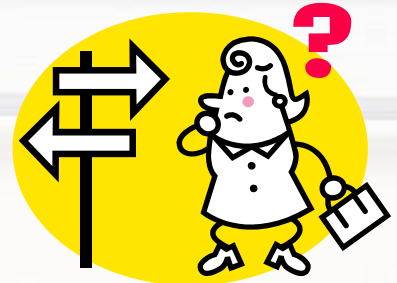
Would this be an allowable use of Title III funds?

A district proposes to use Title III funds to provide monthly dinners for its English learner (EL) parent advisory council. The amount proposed for these dinners is approximately 1/12 of the district's Title III allocation.

Generally, food and entertainment are not allowable, unless there is a specific reason food must be provided (such as an all-day meeting).

This cost may not be reasonable.

Advisement – No.



Title III 2% Cap on Administrative Costs

- ❑ Districts have a limit of **2%** of the Title III grant award for administration.
(section 3115(b))

- ❑ **Administration = administrative costs + indirect costs**

*Examples of **administrative costs**:*

support staff, coordinators, & other personnel that perform administrative functions

- ❑ **Indirect costs** = organization-wide costs 1) incurred for a common or joint purpose benefiting more than one cost objective, and 2) not readily assignable to the cost objectives specifically benefitted

*Example of **indirect costs**:*

utility costs

(Source: OMB Circular A-87)

Administrative Costs – Further Defined

- Administrative costs are associated with the overall project management and administration and which are not directly related to the provision of services to participants or otherwise allocable to the program cost objectives/categories.
- Two types of administrative costs:
 - personnel & non-personnel
 - direct & indirect

(Source: 1997 USDOE Indirect Cost Determination Guidance for State and Local Government Agencies)

Administrative Costs – Further Defined

- Administrative costs include those activities that pertain to establishing and administering policy for operating the LEA or with handling the overall administrative responsibilities for an LEA and program.

Examples:

Personnel – salaries & benefits for office assistants, clerks, accounting, data processing, contracted professional services, such as auditors

(Source: 1997 USDOE Indirect Cost Determination Guidance for State and Local Government Agencies)

Administrative Costs – Further Defined

Examples of labor costs for direct administration:

- Salaries, benefits, & other expenses of the recipient or subrecipient's staff who perform these functions:
overall program management, as distinct from overall program implementation, preparing program plans & budgets, and preparing reports related to program requirements.

Examples of non-labor costs for direct administration:

- Costs for goods & services required for program administration, such as equipment purchase/rental, utilities, office supplies, postage, and rental and maintenance of office space

(Source: 1997 USDOE Indirect Cost Determination Guidance for State and Local Government Agencies)

What are Indirect Costs?

Indirect costs represent the expenses of doing business that are not readily identified with a particular grant, contract, project function or activity, but are necessary for the general operation of the organization and the conduct of activities it performs. In theory, costs like heat, light, accounting and personnel might be charged directly if little meters could record minutes in a cross-cutting manner. Practical difficulties preclude such an approach. Therefore, cost allocation plans or indirect cost rates are used to distribute those costs to benefiting revenue sources.

(Source: USDE Office of the Chief Financial Officer (OCFO) FAQs:

<http://www2.ed.gov/about/offices/list/ocfo/fipao/abouticg.html>)

Indirect or Direct Costs?

Looking at it another way, indirect costs are those costs that are not classified as direct. Direct costs can be identified specifically with particular cost objectives such as a grant, contract, project, function or activity.

Direct costs generally include:

- Salaries and wages (including vacations, holidays, sick leave, and other excused absences of employees working specifically on objectives of a grant or contract – i.e., direct labor costs).
- Other employee fringe benefits allocable on direct labor employees.
- Consultant services contracted to accomplish specific grant objectives.
- Travel of employees.
- Materials, supplies and equipment purchased directly for use on a specific grant or contract.
- Communication costs such as long distance telephone calls or telegrams identifiable with a specific award or activity.

(Source: USDE Office of the Chief Financial Officer (OCFO) FAQs:

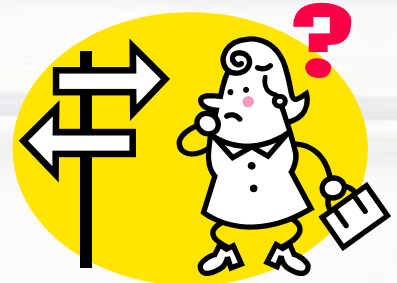
<http://www2.ed.gov/about/offices/list/ocfo/fipao/abouticg.html>)

Question #2:

Would this be an allowable use of Title III funds?

A district proposes to use Title III funds to support the salary of an administrator who will, as part of his/her duties, administer district Title III-funded activities.

This may be allowable, assuming Title III funds are only utilized to support his/her duties that are Title III-related, however, this portion of his/her salary should be assigned to the 2% administrative cost under Title III.



Supplement, not Supplant Requirement - General

Title III funds must be used to supplement the level of Federal, State and local funds that, in the absence of Title III funds, would have been expended for programs for limited English proficient (LEP) students and immigrant children and youth.

(section 3115(g))

Supplement, not Supplant Requirement

Questions to Ask When Considering Whether Title III Funds Can be Used Without Violating the Supplement, not Supplant Requirement

1. What is the instructional program/service provided to all students?
2. What does the LEA do to meet *Lau* requirements?
3. What services is the LEA required by other Federal, State, and local laws or regulations to provide?
4. Was the program/service previously provided with State, local, and Federal funds?

Based on the answers to the above questions, would the proposed funds be used to provide an instructional program/service that is in addition to or supplemental to an instructional program/service that would otherwise be provided to LEP students (or be required to be provided by other laws/regulations) in the absence of a Title III grant?

Supplement, not Supplant Requirement - General

The First Test of Supplanting: Required by Law

The Department assumes supplanting exists if –

- An LEA uses Title III funds to provide services that the LEA is required to make available under State or local laws, or other Federal laws.

Supplement, not Supplant Requirement - General

The Second Test of Supplanting: Prior Year

The Department assumes supplanting exists if –
An LEA uses Title III funds to provide
services that the LEA provided in the prior
year with State, local or other Federal funds.

This assumption can be rebutted.

To refute the “prior year” test of supplanting, the LEA would need to have contemporaneous records to confirm...

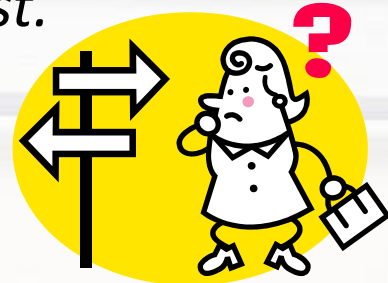
- ☐ Budget cuts were made in a number of areas, not just services for LEP students; and,
- ☐ There was in fact a reduced amount of State or local funds to pay for this activity/position; and
- ☐ The LEA made the decision to eliminate the position/activity without taking into consideration Federal funds.

Question #3:

Would this be an allowable use of Title III funds?

A school district in my State has faced budget cuts for FY2011 that includes the loss of three English as a second language (ESL) teachers. Can this district use Title III funds to pay all or any part of the salary to keep one of the ESL teachers employed in the LEA as an ESL teacher?

The LEA would need to determine whether this teacher provides services that are required by Lau, and also apply the second test of supplement, not supplant – prior year – to determine whether this would be an allowable cost.



Question #4:

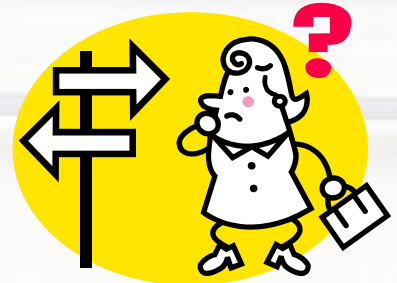
Would this be an allowable use of Title III funds?

- Consultant fees for consultant to deliver professional development session.

Yes, if training is above and beyond any training required under State law, and not required to meet Lau provisions.

- Payment of stipends to substitutes so teachers may attend professional development session during school hours.

Yes, if training is above and beyond any training required under State law, and not required to meet Lau provisions.



Question #5:

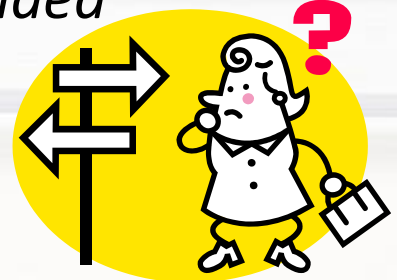
Would this be an allowable use of Title III funds?

- Cost for tuition and fees for teacher to obtain ESL certification.

Yes, this may be considered supplemental, as LEAs would not normally pay these fees for all teachers.

- Cost for training and materials for English language proficiency (ELP) assessment data analysis.

Yes, if data analysis were conducted for purposes such as improvement of instruction, development of a Title III improvement plan, or related to Title III AMAOs. Note that use of Title III funds for costs associated with training provided to administer the State ELP assessment would be considered supplanting.



Question #6:

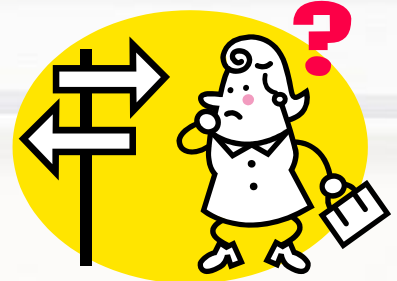
Would this be an allowable use of Title III funds?

-ESL curriculum development.

Yes, if the LEA can demonstrate that this curriculum development is above and beyond what is required by the school, LEA, and State.

-After school and/or summer programs, such as those that offer high-intensity language training after hours or during the summer.

Yes, if the LEA can demonstrate that these programs are above and beyond what is provided for by the school, LEA, and State.

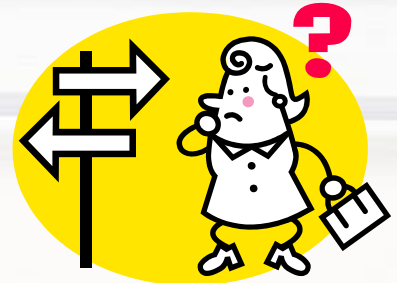


Question #7:

Would this be an allowable use of Title III funds?

-Purchase of a laptop for immigrant students to use a language development software program.

If the laptop in question is something the district would not purchase unless it had received a Title III grant, i.e., is not something they are otherwise be required purchase or have been purchasing, then it would not violate the non-supplanting requirement to make such a purchase. The LEA would need to have checks in place to ensure that the laptop is being utilized for the Title III or the immigrant children and youth program, however.



Question #8:

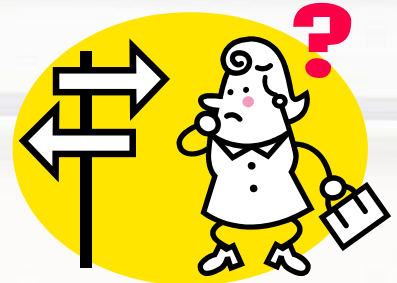
Would this be an allowable use of Title III funds?

-Textbooks that serve as a child's primary math or language arts textbook.

No. The LEA is responsible to provide this as part of the core educational program for all students.

-Supplementary textbooks or reference guides that supplement the LEA-provided textbook.

Yes, if the LEA can demonstrate that they are supplemental.



Supplement, not Supplant – ELP Assessment

- ❑ Title I and Title III funds **may not** be used to administer State ELP assessments for progress because:
 - Title I does not specifically authorize this expenditure, which is necessary because the requirement applies to all LEP students (not just Title I students).
 - Use of Title III funds for this purpose would violate the supplement not supplant requirement since the ELP assessment is a requirement under Title I.
- ❑ **Neither** Title I **nor** Title III funds may be used to develop or administer ELP assessments for identification and placement purposes, except that Title III funds **may** be used for identification & placement assessments for **private school students** (if the use of such funds would not supplant other Federal, State or local funds that may be used for such purposes.)

Question #9:

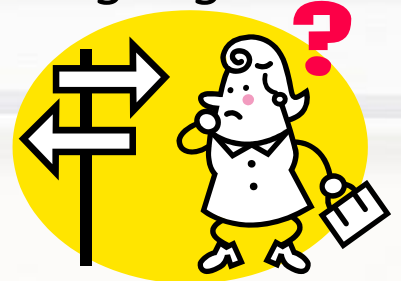
Would this be an allowable use of Title III funds?

- Office supplies for the English learner student intake center.

No. Title III funds should only be used to support purchase of Title III-specific supplies, not supplies for the intake center.

- Stipend to teachers to assess newly enrolled students for English language proficiency.

No, as the LEA is obligated to assess the English language proficiency of students identified under the Home Language Survey for placement and identification purposes.



Question #10:

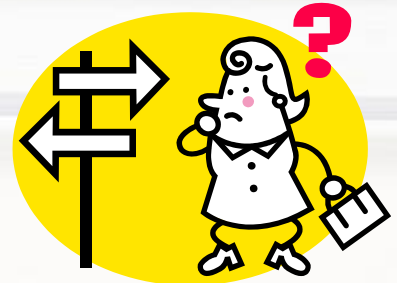
Would this be an allowable use of Title III funds?

-ESL instructional coach whose duty is to administer the English language proficiency (ELP) assessment for placement and identification.

No, as the LEA is obligated to assess the ELP of students identified under the Home Language Survey for placement and identification purposes, however, if the LEA can demonstrate that this position is supplemental, it may be allowable to utilize Title III funds for a portion of the coach's salary to support duties unrelated to ELP assessment administration or meeting Lau obligations.

-Data clerk who enters data for Title III and Migrant Education.

A portion of the data clerk's salary to support his/her duties directly relevant to data entry for data required under Title III could be paid for by Title III. The portion of this individual's salary to support duties for other programs should be assigned to those programs. **Documentation would need to be maintained to support this allocation.**



Provision of Title III Services to LEP Students in Private Schools

Title III funds may be used for the initial English language proficiency assessments for private school students (in cases where the use of such funds would not supplant other Federal, State and/or local funds that may be used for such purposes or other legal requirements).

Provision of Title III Services to LEP Students in Private Schools

Annual ELP assessments:

Title III does not require LEAs to administer their State's annual English language proficiency assessments for identified English language learners in private schools.

However, LEAs are required under Title IX uniform provisions to consult with the private school officials about:

- ☐ how the Title III, Part A services provided to private schools and teachers will be assessed, and
 - ☐ how the results of the assessment will be used to improve those services.
- (section 9501(c)(1)(D))*

Resources



Budget tables for FY2010 awards:

<http://www2.ed.gov/about/overview/budget/statetables/11stbyprogram.pdf>

Office of Management & Budget (OMB) Circular A-87:

http://www.whitehouse.gov/omb/circulars_a087_2004/

EDGAR – (See parts 76 and 80 in particular):

<http://www2.ed.gov/policy/fund/reg/edgarReg/edgar.pdf>

Office for Civil Rights, ELL Resources:

<http://www.ed.gov/about/offices/list/ocr/ellresources.html>